

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
Portland Division

RHONDA W. WILCOX, Civil No. 03:09-CV-6349-HU

Plaintiff,

ORDER

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

ROBERT BARON  
KATHRYN TASSINARI  
Harder, Wells, Baron & Manning, P.C.  
474 Willamette, Suite 200  
Eugene, OR 97401  
(541) 686-1969

DWIGHT C. HOLTON  
United States Attorney  
ADRIAN L. BROWN  
Assistant United States Attorney  
1000 S.W. Third Avenue, Suite 600  
Portland, OR 97204-2902  
(503) 727-1003

THOMAS M. ELSBERRY  
Special Assistant United States Attorney  
Office of the General Counsel  
Social Security Administration  
701 Fifth Avenue, Suite 2900 MS/901  
Seattle, WA 98104-7075  
(206) 615-2112

Attorneys for Defendant

MARSH, Judge.

Magistrate Judge Hubel issued a Findings and Recommendation on June 27, 2011, recommending that the Commissioner's October 7, 2009, final decision denying plaintiff's April 27, 2004, application for disability insurance benefits pursuant to Title II of the Social Security Act, 42 U.S.C. § 1381 *et seq.*, be reversed, and that this case be remanded to the Commissioner for the immediate payment of benefits. Defendant has filed timely objections (doc. 24). Accordingly, the matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). The court reviews *de novo* those portions of the Magistrate's Findings and Recommendation to which the Commissioner has objected. See 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

After *de novo* review, I find no error by the magistrate judge in his painstaking analysis of the record, particularly relating to plaintiff's credibility, the disability opinion of

treating physician, K. Annette Weller, M.D., and the lay witness evidence presented by plaintiff's husband.

Accordingly, I **ADOPT** the Findings and Recommendation (#16) of Magistrate Judge Hubel and remand this matter for the immediate payment of benefits.

IT IS SO ORDERED.

DATED this 21 day of September, 2011.

/s/ Malcolm F. Marsh  
Malcolm F. Marsh  
United States District Judge